

AMENDED IN ASSEMBLY AUGUST 5, 2013

AMENDED IN SENATE MAY 24, 2013

AMENDED IN SENATE MAY 6, 2013

AMENDED IN SENATE APRIL 23, 2013

AMENDED IN SENATE APRIL 1, 2013

SENATE BILL

No. 448

Introduced by Senator Leno

(Coauthor: Assembly Member Nazarian)

February 21, 2013

An act to add Sections 25351 and 25356.5 to the Public Resources Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

SB 448, as amended, Leno. Energy: petroleum supply and pricing.

Existing law establishes the State Energy Resources Conservation and Development Commission in the Natural Resources Agency, and specifies the powers and duties of the commission with respect to energy resources in the state. Under existing law, various provisions regulate petroleum supply and pricing. Existing law requires the commission to obtain and analyze monthly production reports prepared by the State Oil and Gas Supervisor under a specific provision. Existing law authorizes the State Lands Commission to enter into oil and gas leases for the extraction and removal of oil and gas deposits on state lands. Existing law requires the leases to include a royalty provision.

This bill would require the State Energy Resources Conservation and Development Commission, or the commission, upon appropriation by the Legislature of moneys generated by the collection of royalty

payments from the oil and gas leases, to identify data currently collected or developed by the commission and to establish a methodology to analyze whether fuel price manipulation has occurred or is occurring. The bill would require the commission to notify the appropriate state or federal agencies if a probable market manipulation has occurred or is occurring. The bill would require the commission, in consultation with the State Air Resources Board and other relevant state agencies, ~~to prepare and submit to the Legislature~~ *include in its integrated energy policy report* a report on further legislative recommendations to limit the amount of price volatility and comparative price increase in the California fuel market.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 25351 is added to the Public Resources
- 2 Code, to read:
- 3 25351. The Legislature finds and declares all of the following:
- 4 (a) California is in the process of creating investments in, and
- 5 deployment of, lower carbon and more sustainable fuel options
- 6 for consumers.
- 7 (b) California's transition to a lower carbon and lower cost
- 8 transportation fuel mix can be threatened by illegal actions that
- 9 manipulate prices and make it difficult to understand the real
- 10 impact of new standards and regulations.
- 11 (c) It is the intent of the Legislature to implement policies that
- 12 protect consumers against market manipulation in the wholesale
- 13 markets for finished gas and diesel fuel and their refining
- 14 feedstocks.
- 15 (d) It is the intent of the Legislature to use existing resources at
- 16 the State Energy Resources Conservation and Development
- 17 Commission and develop additional expertise to prevent market
- 18 manipulation.
- 19 (e) It is the intent of the Legislature that the authority under this
- 20 act be complementary to the authority of other state and federal
- 21 agencies.
- 22 (f) It is the intent of the Legislature that the State Energy
- 23 Resources Conservation and Development Commission work with

1 other state and federal agencies to identify activities that may
2 indicate market manipulation and investigate those activities.

3 SEC. 2. Section 25356.5 is added to the Public Resources Code,
4 to read:

5 25356.5. (a) In addition to the requirements of Section 25356,
6 and in consultation with relevant state and federal agencies, the
7 commission shall do all of the following:

8 (1) Identify data currently collected or developed by the
9 commission that is important to determine whether improper fuel
10 price manipulation has occurred or is occurring. The data may
11 include all of the following:

12 (A) Individual fuel producer data and importer and bulk trader
13 data, including all of the following:

14 (i) Production or throughput data.

15 (ii) Emission data or operational data.

16 (iii) Sales, storage, and transfer volumes.

17 (iv) Price.

18 (B) Observed and forecasted wholesale market prices.

19 (2) Establish an analytical methodology for use in evaluating
20 data collected by the commission to inform whether fuel price
21 manipulation has occurred or is occurring. The methodology may,
22 at the discretion of the commission, be targeted to analyzing data
23 on transactions and market conditions most likely connected with
24 fuel pricing manipulation, and may include, but shall not be limited
25 to, both of the following:

26 (A) Producer, importer, and bulk trader level analysis.

27 (B) Marketwide analysis, comparing real time prices to expected
28 prices based on published forecasts or modeling output.

29 (3) Analyze the data under paragraph (1) that is in the possession
30 of the commission and investigate for suspected fuel price
31 manipulation in both of the following:

32 (A) Individual business level.

33 (B) Marketwide producer level, taking into account the actions
34 of multiple producers.

35 (4) Identify data that is not in possession of the commission and
36 is considered important to determine whether fuel pricing
37 manipulation has occurred or is occurring. The commission shall
38 furnish a list of the data to the Legislature upon request.

39 (b) The commission, in consultation with the State Air Resources
40 Board and other relevant state agencies, shall include in the first

~~biennial assessment specified in subdivision (b) of integrated energy policy report pursuant to Section 25358 following enactment of this section 25302~~, a report on further legislative recommendations to limit the amount of price volatility and comparative price increase in the California fuel market. The report shall include an evaluation of strategies for doing all of the following:

(1) Increasing storage of fuels produced in the state.

(2) Leveraging the state's purchasing power related to the state's fleet.

(3) Increasing timely imports of fuels during emergency conditions and rapid price volatility.

(4) Coordinating the timing of maintenance and shutdown activities at in-state fuel production facilities.

(c) For purposes of this section, "fuel" means finished gasoline and diesel and their refining feedstocks derived from petroleum.

(d) The commission shall implement this section upon appropriation by the Legislature of moneys generated by the collection of royalty payments from oil and gas leases entered into pursuant to Article 2 (commencing with Section 6826) of Chapter 3 of Part 2 of Division 6.

(e) (1) Upon collection of the data and completion of the analyses required under this section, if the data indicates that a probable market manipulation has occurred or is occurring, the commission shall notify the appropriate state or federal agencies of the probable market manipulation.

(2) Nothing in this section shall require the commission to make final findings or determinations that market manipulation has occurred or is occurring.